

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

Canal Indemnity Company,

Plaintiff(s),

v.

Civil Action No.
CV-2005-778-T

WLS, Inc. D/b/a S & H Mobile Homes,
Cavalier Acceptance Corp.; Greentree; Ruth
Barron; John D. Barron,

Defendant(s).

**PLAINTIFF'S MOTION TO STAY BRIEFING ON PENDING MOTION FOR
SUMMARY JUDGMENT UNTIL FEBRUARY 20, 2006**

COMES NOW, the plaintiff, Canal Indemnity Company ("Canal") and respectfully requests this Honorable Court to extend the deadline for the Defendants to respond to Canal's pending motion for summary judgment until February 20, 2006, and as grounds therefor, states as follows:

1. Canal moved for summary judgment on December 20, 2005. (Doc. 27). Thereafter, the Court ordered that responses to this motion be filed no later than January 18, 2006. (Doc. 28).

2. The instant lawsuit involves an insurance coverage dispute that is premised on an underlying lawsuit styled *John D. Barron, plaintiff versus WLS, Inc. d/b/a S & H Mobile Homes, Cavalier Acceptance Corp, Greentree, and Ruth Barron, defendants, in the Circuit Court of Chilton County, Alabama (CV-2005-31-F)* (hereinafter "the underlying lawsuit").

3. Upon information and belief, a tentative settlement has been recently been reached among the parties to the underlying settlement. Assuming the settlement is consummated in the underlying lawsuit, Canal anticipates that a Joint Stipulation of Dismissal will be filed shortly in the

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instant case.

4. Canal believes that extending the deadline for the defendants to respond to Canal's motion for summary judgment until February 20, 2006 will give the underlying parties time to complete the underlying settlement before having to take the potentially unnecessary step of responding to Canal's motion for summary judgment. This will also benefit the Court from having to consider a motion and responses that may ultimately be moot. Canal reasonably submits that no prejudice should result from granting this motion and that the Court's trial date should not be affected.

5. In addition, the instant motion is being filed *prior to* the expiration of the above-deadline for defendants to respond to Canal's motion for summary judgment. Cf. Payne v. Ryder Sys., Inc., 173 F.R.D. 537, 540 (M.D. Fla.1997) (holding the Eleventh Circuit has consistently held that absent a showing of good cause, "motions filed after a deadline imposed by a court should be denied as untimely").

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, Canal Indemnity Company, respectfully requests this Honorable Court to extend the deadline for the Defendants to respond to Canal's pending motion for summary judgment until February 20, 2006

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished by Facsimile and U.S. Mail, postage prepaid and properly addressed, on this 17th day of January, 2006 to:

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